

YOUTH SERVICES POLICY

Title: Access to and Release of Active and Inactive Youth Records Next Annual Review Date: 11/21/2015	Type: B. Classification, Sentencing and Service Functions Sub Type: 3. Records Number: B.3.2
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References: La. R.S. 15:574.12, La. R.S. 15:840.1, La. R.S. 15:909, La. R.S. 39:241; LSA Ch. C. Art. 412; CCRP Art. 875; The Privacy Act of 1974, U.S.C. (symbol) 552(a); ACA Standards 2-CO-1E-01, 2-CO-1E-06, 2-CO-1E-07, 2-CO-1E-08 (Administration of Correctional Agencies), 4-JCF-6F-01 and 4-JCF-6F-02 (Performance-Based Standards for Juvenile Correctional Facilities), 2-7070 (Juvenile Probation and Aftercare Services); YS Policy Nos. A.3.3 "Requests for Statistical Information; Collection of Fees for Reproduction of Public Records and Statistical Reports"; B.6.1 "Health Care"; C.1.5 "Research", C.1.7 "Crime Victims Registration and Notification", and D.5.1 "Composition/Location/Retention of Active and Inactive Youth Records-Community Based Services; OJJ/CCS Policy 4C-26 "Confidentiality of Health Records" and 4D-08 "Confidentiality of Mental Health Information" "Research"	
STATUS: Approved	
Approved By: Mary L. Livers, Deputy Secretary	Date of Approval: 11/21/2013

I. AUTHORITY:

Deputy Secretary of Youth Services (YS) as contained in La. R.S. 36:405. Deviation from this policy must be approved by the Deputy Secretary.

II. PURPOSE:

To establish the procedures for access to and release of active and inactive youth records.

III. APPLICABILITY:

This policy applies to all persons employed by or under contract with YS. Unit Heads are responsible for implementing this policy and conveying its contents to all affected persons.

IV. DEFINITIONS:

In Camera – Submission of subpoenaed records for a judge's review prior to release.

Law Enforcement Agencies - Those agencies designed to enforce Federal, State or municipal laws or ordinances, and who receive public funds as their primary source of funding, i.e. sheriffs' offices, local and state police departments, departments of corrections, state attorney generals, U.S. attorneys, district attorneys, and the Federal Bureau of Investigation.

Reintegration/Service Plan (RSP) – Specifies problem need areas already identified by the initial or latest SAVRY reassessment conducted by CBS. The goals, objectives and the methods used to address the need areas while the youth is in secure care shall be updated during intake, including the role of the youth and staff. Development of this plan is accomplished through review of the youth's SAVRY, the youth's record, and is a collaborative effort between the Case Manager and the youth.

Unit Head - Deputy Secretary, Facility Directors and Regional Managers.

V. Policy:

It is the Deputy Secretary's policy that all information obtained on a youth shall be confidential and shall not be subject to public inspection or be disclosed directly or indirectly to anyone except in accordance with this policy. None of the provisions contained herein are intended to restrict the ability of YS to provide any contract facility with full and complete information on any youth housed therein, or prevents sharing of information through Memorandums of Understanding (MOUs) with child serving agencies and organizations.

VI. RELEASE OF INFORMATION AND RECORDS:

A. Written consent by the youth, parent, guardian or attorney of record is required before a person may be granted access to a youth's case record. To permit release of records pertaining to education, substance abuse treatment and HIV status, a youth or his parent/guardian must execute a specific confidentiality waiver for each category of documents. Access includes viewing the Master and/or JETS record and receiving copies of documents from those records. Written consent is not required if the records are subpoenaed or released pursuant to this policy.

B. Release of initial documents to an attorney (initial contact-no attorney client relationship yet):

Upon receipt of the completed "Consent for Release of Initial Information to Attorney" form [see Attachment B.3.2 (a)], executed by the youth and written request by the attorney, the facility may provide copies of the following information to an attorney who has met with the youth:

1. JETS Master;

2. Code of Conduct reports for the quarter;
3. Court documents;
4. Time computation worksheet;
5. Custody classification/reclassification for the preceding two (2) quarters;
6. Initial SAVRY or reassessment test results;
7. A listing of programs completed, including substance abuse (alcohol/drug) education. However, no acknowledgment of a youth's substance abuse treatment may be given.

C. Release of records upon establishment of attorney client relationship:

An attorney client relationship sufficient to allow release of a youth's record is established upon the occurrence of the following:

1. Youth is age 18 years of age or older

A receipt of a "Statement of Representation and Release of Records" form [see Attachment B.3.2 (b)], executed by the youth indicating the youth's intent to be represented by the attorney named in the document. . However, if the attorney is appointed by the court or is a public defender, the appointing court order shall serve as written documentation.

2. Youth is under the age 18

- a. A receipt of a completed "Parent/Guardian Consent to Release of Youth Records" form [see Attachment B.3.2 (c)], executed by the parent/guardian of the youth;
- b. The attorney is court appointed or is the public defender representing the youth, and the court order appointing the attorney or court document showing the representation is provided; or
- c. Release may also be accomplished through the occurrence of (i. – v.) below:
 - i. Youth has affirmed his intent through execution of a written document to enter into an attorney client relationship with a particular attorney or law firm, and the "Statement of Representation and Release of Records" form is executed by the youth, which allows general access by the attorney to the youth's record.

Additionally, if the youth intends to allow release of records pertaining to education, substance abuse treatment or HIV/AIDS status, the youth must ensure that he has initialed each specific waiver on Attachment B.3.2 (b) for each individual category of documents;

- ii. Receipt by the facility of a copy of a letter from the attorney notifying the youth's parent/guardian that the youth requested the attorney's representation. The letter must contain language directing the parent/guardian to notify the facility or the court of jurisdiction should the parent/guardian object to the representation and/or access to records;
- iii. Receipt of postal "Proof of Mailing" verifying that the letter in 2.c. ii. above has been mailed to the parent/guardian; and
- iv. Receipt of a written statement made by the attorney attesting that he/she has made efforts to contact the parent/guardian; and
- v. At least ten (10) business days have elapsed since receipt by the facility of all documents listed in Section VI.C.2.c. i. through iv. above, **AND** the parent/guardian has not voiced an objection.

Once the attorney client relationship is established, whether through a consent form executed by the parent/guardian, or through the appointing court order, or if the indigent defender, through a court document showing the representation, or through the provision of documents required in Section VI.C.2.c.i. through iv. above, the documents establishing authority to release the records shall be filed in the youth's Master Record under Clip VIII. Establishment of the attorney client relationship shall also be entered in the youth's JETS record.

- D. Pursuant to La. R.S. 15:574.12, information on a particular youth may be released without special authorization, subject to other restrictions that may be imposed by federal law or by other provisions of state law, to the following:

- 1. Board of Pardons;
- 2. Board of Parole
- 3. Governor;
- 4. Sentencing Judge;
- 5. Counsel for a youth in a delinquency matter;
- 6. District Attorneys;
- 7. Law enforcement agencies;

8. YS personnel, including legal representatives and law students;
 9. Appropriate governmental agencies or public officials, when access to such information is imperative for the discharge of the responsibilities of the requesting agency, official or court officer and the information is not reasonably available through any other means; and
 10. Court officers with court orders specifying the information requested.
- E. Fingerprints, photographs and information pertaining to arrests and disposition of delinquent offenses, as well as information regarding escapes, may be released to law enforcement agencies without special authorization.
- F. The Deputy Secretary/designee may approve the reading of information by the following:
1. Social Services agencies assisting in the treatment of the youth;
 2. Appropriate governmental agencies or officials;
 3. Approved researchers who have guaranteed in writing anonymity of all subjects (refer to YS Policy No. C.1.5).
- G. The Deputy Secretary/designee may approve selective reading (but not copying) of information by a private citizen or organization aiding in the rehabilitation of, or being directly involved in the hiring of, the youth under the following conditions:
1. It appears that the withholding of the information would be to the youth's disadvantage.
 2. The requested information is necessary to further the rehabilitation or the likelihood of hiring the youth.
 3. The requested information is not reasonably available through other means.
 4. The youth or his parent/guardian has given written consent for the release of information.

VII. RELEASE OF INFORMATION TO CRIME VICTIMS:

- A. Both the information contained in a "Victim/Witness Notification Request Form" (refer to YS Policy No. C.1.7), and the fact that a notification request has been made are confidential. Any inquiry from outside of YS about whether particular persons have requested notification or whether there has been a notification request for a particular youth shall be referred to the Family Liaison.

- B. Information may be released to victims and/or witnesses under the state's authority, pursuant to YS Policy No. C.1.7.

VIII. SUBPOENAED RECORDS:

- A. Whenever the records of a youth are subpoenaed, they shall be submitted to the appropriate court for a ruling as to whether the information should be turned over to the party who caused the subpoena to be issued. The court shall make this determination "in camera". If the court makes any one of the following determinations, the information shall be withheld:
 - 1. The information is not relevant to the proceedings; or
 - 2. The information was derived from communications which were obviously made in the confidence that they would not be disclosed; or
 - 3. Confidentiality is essential to future useful relations between the source and the recorder of the information.
- B. Should the court authorize disclosure of the records in accordance with the subpoena, the party who caused the subpoena to be issued shall pay a fee for the cost of production of the records in accordance with La. R.S. 39:241 and YS Policy No. A.3.3, unless the court determines that the party has been granted pauper status in accordance with law.

IX. RECORDS NOT SUBPOENAED SUBMITTED TO THE COURTS FOR REVIEW:

YS may submit any record to the appropriate court for a ruling as to whether the information should be turned over to the party requesting information.

X. ACCESS TO AND RELEASE OF MEDICAL RECORDS:

Refer to YS Policy No. B.6.1, and OJJ/CCS 4C-26 and 4D-08 for specifics governing access to and release of medical records.

XI. YS ACCESS TO INFORMATION AND RECORDS OF OTHER AGENCIES:

During the course of any investigation which YS is authorized by law to conduct, or which is necessary for the rehabilitation of youth in the custody or under the supervision of YS, YS shall have access to information and records under the control of any state or local agency which is necessary to carry out the duties of the office. The "Consent to Release Information" form [see Attachment B.3.2 (d)] shall be completed and filed pursuant to YS Policy.

XII. YOUTH ACCESS TO RECORDS:

Information contained in the youth's record shall be confidential and shall not be released to the youth except in accordance with the following:

- A. A youth may, upon request, have access to his JETS Master; a time computation worksheet, SAVRY or reassessment score, any court documents that are related to the youth's secure care placement; Code of Conduct reports; custody classification/reclassification, and the Reintegration/Service Plan (RSP).
- B. A youth shall not have access to another youth's record.
- C. The following list includes, but is not limited to, additional information which shall not be accessible to youth:
 - 1. Disposition Reports;
 - 2. Social history;
 - 3. Information revealing or tending to reveal the identity of a confidential informant;
 - 4. Unusual Occurrence Reports;
 - 5. Admission Summary;
 - 6. Correspondence from any non-corrections source directed solely to facility officials;
 - 7. Correspondence or inquiries originated by facility personnel;
 - 8. Investigations conducted by non-departmental agencies (District Attorney, State Police, FBI, etc.);
 - 9. Progress Notes;
 - 10. Progress Reports to the court;
 - 11. Investigations conducted by YS Central Office; and
 - 12. Non-disciplinary court-related facility investigations.
- D. Facility Directors shall establish procedures for youth to follow when requesting copies of documents from their records.

XIII. INFORMATION REQUESTS:

Requests for information shall be made in writing prior to releasing any information. The individual or agency must certify in writing that they will not release the information to any other agency or individual.

XIV. FEES:

The fee schedule for copies of public records shall be established pursuant to YS Policy No. A.3.3.

YS Policy No. B.3.2

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Previous Regulation/Policy Number: B.3.2

Previous Effective Date: 05/18/2012



Attachments/References: B.3.2 (a) CONSENT FOR RELEASE - Nov2013.doc



B.3.2 (b) STATEMENT OF REPRESENTATION - Nov2013.doc



B.3.2 (c) Parent Guardian Consent - Nov2013.doc